

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: ZOSTAVAX (ZOSTER VACCINE
LIVE) PRODUCTS LIABILITY
LITIGATION

MDL No. 2848
Civil Action No. 2:18-md-02848-HB

THIS DOCUMENT RELATES TO:

Loretta Abbo v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20200-HB

Sylvia Anderson v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20184-HB

John Andrea v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20185-HB

Joseph Anemone v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20186-HB

Linda Arch v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20126-HB

Inez Archie v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20159-HB

Deborah Augenti v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20160-HB

Esther Bader v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20187-HB

THIS DOCUMENT RELATES TO:

John Barrett v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20146-HB

Jerome Berkowitz v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20188-HB

Joseph Bernet v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20189-HB

Irwin Binder v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20190-HB

Diane Bonizzi v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20192-HB

Sally Boon v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20137-HB

Patricia Breault, Individually and as Executor of the Estate of Shirley Breault, v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20198-HB

Teresa Brumbaugh v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20147-HB

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Jean Wright v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20181-HB

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Joseph Yopez v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20145-HB

Matthew Zarosl, Individually and as Proposed Administrator of the Estate of Barbara Zarosl, v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20194-HB

Felip Zielinski v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20177-HB

PRETRIAL ORDER NO. 172

AND NOW, this 2nd day of May, 2019, for the reasons set forth in the accompanying memorandum, it is hereby ORDERED that:

(1) The omnibus motion of defendants Merck & Co. Inc. and Merck Sharp & Dohme Corp. to dismiss all claims of fraudulent misrepresentation, fraudulent concealment, negligent misrepresentation, consumer fraud, and violations of state consumer fraud statutes in the above actions is GRANTED with prejudice.

(2) The motions of defendant McKesson Corp. to dismiss the complaints of plaintiffs in each of the above actions are GRANTED with prejudice with respect to the counts described in ¶ 1 of this order.

(3) The motions of defendant McKesson Corp. to dismiss the complaints of plaintiffs in each of the above actions is GRANTED without prejudice with respect to the remaining counts.

(4) The remaining counts are also dismissed as to defendants Merck & Co. Inc. and Merck Sharp & Dohme Corp. without prejudice.

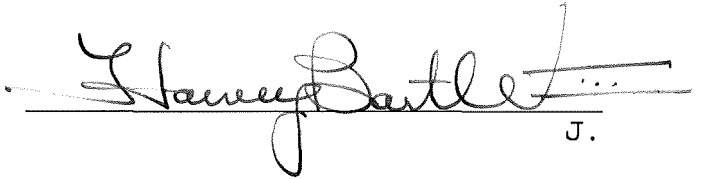
(5) Plaintiffs may file an amended complaint against defendants Merck & Co. Inc., Merck Sharp & Dohme Corp., and McKesson Corp. with respect to the remaining counts within 30

days from the date of this order. Any amended complaint must be limited to 40 pages. See e.g. complaints in Elmegreen v. Merck & Co., Inc. et al, 2:17-cv-2044; Trapp v. Merck & Co., Inc. et al, 2:18-cv-3866.

(6) The actions will be dismissed with prejudice without further notice if the amended complaints are not timely filed.

(7) No attorney at Marc J. Bern & Partners LLP may hereinafter file any complaint or amended complaint in MDL No. 2848 that contains more than 40 pages. The court will dismiss without prejudice on its own motion any such complaint or amended complaint hereinafter filed that exceeds 40 pages.

BY THE COURT:


J.